

REMARKS**Concerning the Specification.**

Paragraph 1 of the Official Communication objects to the disclosure due to two informalities. These informalities have been corrected in the substitute specification.

Concerning the Drawings.

Paragraph 2 of the Official Communication indicates that the drawings filed on 25 May 2001 are acceptable subject to correction of informalities noted in the Notice of Draftperson's Patent Drawing Review. Included in this response is a Transmittal of Corrected Formal Drawings by which Applicants have corrected the informalities noted by the Official Draftsman.

Concerning the Claim Rejections.

At the mailing of the Official Communication, claims 6-68 were pending with the Office setting forth grounds rejecting each of these claims. The claims have been canceled and new claims 74-83 are being submitted for consideration. The previous claims have been canceled in order to provide a claim set that is more concise and focused on a few pertinent aspects of the present invention. This action has been taken to facilitate a less burdensome review of the claims and to help expedite this case towards allowance. This action should not be construed as an admission that the previous rejections raised by the Office regarding these claims are valid.

Paragraphs 3-4 set forth rejections for various claims under 35 U.S.C §102(e) as being anticipated by U.S. Patent No. 6,449,601 to Friedland et al. (*Friedland*). Each of these claims has been canceled but the issues are still pertinent in the examination of the currently pending new claims. Thus, these issues are fully addressed.

With regards to the pending claims, the applicant respectfully submits that the claimed invention is not fully disclosed in *Friedland* and thus, is in condition for allowance. More specifically, the applicant submits that *Friedland* does not disclose (a) a system that allows the auctioneer to remain in control; (b) a clerk system as claimed in the present invention; (c) the integration of remote bidders into the live auction and (d) the integration of live audio into the system.

Auctioneer is in control. The Office will appreciate that the claimed invention enables the auctioneer to remain in control of the auctioning event. This aspect of the invention is not described, suggested or taught in *Friedland*. More specifically, the various components of the claimed system, including the clerk system, cooperate to integrate a remote bidding audience with the onsite bidding audience of a live auction, while still allowing the auctioneer to remain in control of a live auction event. The auctioneer being in control of the auction event is a key element for the integration of the remote bidders into the live auction. The auctioneer needs to have control over which bids are accepted, which bids are rejected, when the bidding is going to be closed, when the next lot is put on the block, when the lot is moved into a pre-sold state, etc. In addition, the auctioneer needs to have the freedom to work the remote and onsite audiences to push bids to their maximum level, play bidders off of each other, and generally apply the psychology of the bidding process. For the auctioneer to maintain such control, the various events (i.e., the transition from a bidding state to a sold state) must be conducted under the control of the auctioneer rather than some external force. If such transitions are controlled by external events, the auctioneer is stripped of some level of control.

Friedland teaches a time-based transition system that greatly limits the auctioneer's control of the auction event. Throughout the *Friedland* reference, the system is described as a time-based transition system. For instance, *Friedland* states that "at some specified time interval, the lot transitions to either the state "pre-bid" 206 via transition 208 or the "open for bidding" state 210 . . ." Col. 6, line 19. *Friedland* also states that "after another interval of time, the lot transitions from the pre-bid state to either the open-for-bidding state 210 via transition 216 or the state "pass" . . ." Col. 6, line 29. Again, *Friedland* states that "a lot in the presold state will be sold to the current highest bidder unless a higher bid is received within some time interval." Col. 6, line 60. Other similar references can be found at col. 6, line 55, line 56 and line 64, and col. 7 line 18.

In *Friedland*, state transitions from the pre-bid state to the sold state can occur totally autonomous of the auctioneer because such transitions are time-based. Thus, in *Friedland* the auctioneer is not in control of when the auctioning for a particular lot begins and ends.

In the present invention is an event based system and is operated under the direction or control of the auctioneer. An item is not sold until the auctioneer makes that determination. The auctioneer is not subject to the timing constraints described in *Friedland*, and in fact, if the auctioneer so desires, he or she can delay a particular lot for as long as he or she deems is necessary, or abruptly end the auctioning. The Office will appreciate how this control enables the auctioneer to respond to the onsite and remote audiences, play the audience members off of each other, and generally control the auction event. *Friedland* cannot provide such control to the auctioneer because it is strictly a

time-based transition system. Thus, *Friedland* cannot possibly describe, suggest or teach the control aspect of the present invention because it explicitly strips the auctioneer of such control.

The Clerk System. Furthermore, the Office will appreciate that the invention recited in the pending claims includes a clerk system and a bid system. The applicant respectfully submit that *Friendland* does not, among other things, describe, suggest or teach the use of the clerk system of the present invention.

In general, *Friedland* describes distributing live auction-related content over the Internet. The live auction-related content is generated by and exchanged between remote auction bidders and a human proxy for the remote auction bidders. The human proxy is physically present in the audience at a live auction and is nothing more than one more member of the onsite live auction audience. More specifically, the human proxy sits in the live auction audience with a laptop computer on which are composed auction status updates that are based solely upon the human proxy's personal observations of the live auction activities. The human proxy distributes the composed auction status updates from the laptop computer via the Internet to the remote auction bidders. The remote auction bidders may send auction bid instructions via the Internet only to the human proxy's laptop computer. The human proxy must then physically retrieve the remote auction bidder's bid instructions from the laptop and then must physically indicate the remote auction bidder's bid to the live auction auctioneer in the same traditional manner that onsite live auction bidders do and have historically done. As a result, the auctioneer does not have any information indicating the identity of the remote bidders, is not able to interact with the remote bidders, and during the auction, cannot distinguish between the

not in claims

local bidders and remote bidders other than the fact that one of the local bidders is operating a laptop computer.

The clerk system operates to process both onsite and remote auction bids. It should be noted that the clerk system has the ability to accept and reject auction bids either automatically, under the direction of the auctioneer, or under the control of a clerk being directed by an auctioneer. This is very different from the capability of the human proxy described in *Friedland*. *Friedland* does not describe, suggest or teach the element of a clerk system that can accept or reject auction bids and the human proxy taught in the *Friedland* does not and cannot perform the functions of the applicants' clerk system.

Integration of Remote Bidders. Furthermore, the Office will appreciate that *Friedland* teaches a distribution of the auctioning status to remote bidders whereas the present invention is focused on an integration of the remote bidders into the live auction. For instance, in *Friedland*, the use of a human proxy prevents integrating the remote bidding audience and the auctioneer. The auctioneer in *Friedland* has no idea who is providing a remote bid because the bid is entered to the floor by the human proxy raising his or her hand and bidding on behalf of the remote bidder. It is clear that in *Friedland*, no aspect of the remote bidder's personality is presented to the auctioneer and the auctioneer is unable to exploit the psychological attributes inherent in an auction atmosphere. However, the integration provided for in the present invention allows the auctioneer to work both the onsite and remote bidding audience by reading the audience and individuals, playing the individuals off of each other, and drawing larger bids for the items being auctioned. Because *Friedland* is simply a distribution system -- the human

proxy distributes status information to the remote bidders rather than integrating them into the audience – this level of integration is not described, suggested or taught.

Integration of Audio. New claims 76, 77, 80, 81 and 83 include the element of an audio system that provides a live audio feed and/or a video system that provides a live video feed to the remote bidders. *Friedland* does not describe, suggest or teach either of these elements. The only related reference in *Friedland* is that a remote bidder can listen to a live broadcast of the auction via various communication mediums. However, *Friedland* does not describe a mechanism for such a function to be integrated into the bidding system. In the claimed bidding system, this functionality is a complicated and integral component of the system.

Therefore, the applicant submits that these claims allowable over the cited references.

Paragraphs 5 and 6 set forth rejections of various claims under 35 U.S.C §103(a) as being unpatentable over *Friedland*.

Paragraph 7 sets forth rejections of various claims under 35 U.S.C §103(a) as being unpatentable over *Friedland* in view of U.S. Patent Number 6,415,269 awarded to Dinwoodie (*Dinwoodie*).

Paragraph 8 sets forth rejections of various claims under 35 U.S.C §103(a) as being unpatentable over *Friedland* in view of U.S. Patent Number 6,006,201 awarded to Berent et al. (*Berent*).

Paragraph 9 sets forth rejections of various claims under 35 U.S.C §103(a) as being unpatentable over *Friedland* and Dinwoodie, and further in view of *Berent*.

Applicant has cancelled each of the claims rejected in paragraphs 5-9. The new claims, as described above, are allowable over the references cited. However, the applicant addresses two additional points with regards to dependent claims 75, 79 and 83.

In claims 75 and 79, the element of a data mining or bid history capability is recited. In these claims, the remote auction bidders can access the information retained by the data mining means or in the bid history. None of the references cited by the Office describe, suggest or teach the capability for the remote bidders having access to such information. Thus, the applicant respectfully submits, that in addition to the previous arguments pertaining to the claims, that for at least this reason, claims 75 and 79 are not described in the cited art, are in condition for allowance, and requests the Office to allow these claims.

Claim 83 recites the ability to ensure the integrity of the bidding information by limiting the streaming live video and audio transmission if a degradation in the quality of service is detected.

The new claims do not add any new subject matter nor should they require an additional search by the Office. It is respectfully requested that these claims be allowed by the Office.

Conclusion

For all these foregoing reasons, applicant respectfully requests the Office to reconsider the *Friedland*, *Dinwoodie*, and *Berent* references in light of the applicant's remarks set forth above and the newly submitted claims, and to thereafter recognize the clear limitations of the disclosure and teachings of the *Friedland* reference and the

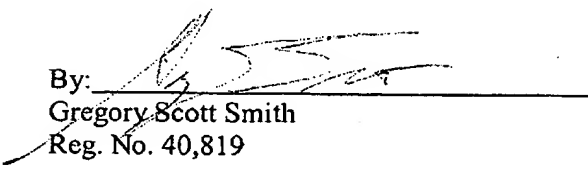
patentable distinction of the claims of the present application over these references, either taken alone or in combination, and then allow all claims of the application now pending over the prior art references of record.

Thus, the applicant respectfully submits that the new claims, and the arguments proposed for rejection fully address each and every basis posed by the Office in rejection of the claims and that the newly submitted claims are in condition for allowance and respectfully request the Office to move this case to allowance.

Further, applicant respectfully requests the Office to call the applicant's attorney if there are any questions or amendments that can be handled through an examiner's amendment.

There are no fees due for this response. If there are any questions, applicant respectfully requests the Office to call the applicant's attorney.

Respectfully submitted,

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